

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**C.T., Appellant**

**and**

**SOCIAL SECURITY ADMINISTRATION,  
Philadelphia, PA, Employer**

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**Docket No. 21-1026  
Issued: January 19, 2022**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 26, 2021 appellant filed a timely appeal from a March 26, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

**FACTUAL HISTORY**

On May 11, 2020 appellant, then a 54-year-old claims examiner, filed an occupational disease claim (Form CA-2) alleging that she developed a back condition due to factors of her federal employment, including teleworking without proper office equipment and sitting for

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

prolonged periods without the ability to stand while working. She indicated that she first became aware of her condition and first realized its relation to her federal employment on April 13, 2020. Appellant did not stop work.

In a May 1, 2020 letter, Dr. Christina DiCello, a chiropractor, noted that appellant initially presented for treatment on April 17, 2020 for diagnoses of right sacroiliac joint sprain, subluxations, cervical spine sprain with myalgia, and tension headaches resulting from working at home without proper ergonomic positioning. She related that appellant had been experiencing back pain radiating into her right leg for more than two weeks, causing appellant to walk with a limp. Dr. DiCello advised that appellant required a standing frame desk and chair with adjustable height and lumbar support while working from home.

In an undated statement received by OWCP on May 11, 2020, appellant explained that she began teleworking on March 23, 2020 due to COVID-19 and that the employing establishment did not grant her request to use her office chair or external monitors. She asserted that she did not have a home office and had to work from a table and regular chair, until the week of April 6, 2020 when she secured an office chair. Appellant alleged that the sedentary nature of her job duties and inadequate office equipment caused physical stress on her body, which resulted in increasing back pain and difficulties performing her activities of daily living independently. She further noted that she previously had back surgery approximately 25 years prior.

In a May 29, 2020 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim. OWCP afforded appellant 30 days to submit the necessary evidence.

On April 17, 2020 appellant was seen by Dr. DiCello with complaints of worsened right leg pain caused by inadequate ergonomic support at her home workstation. She explained that, before she began teleworking, she used a standing desk to support her lower back, but that this equipment was unavailable after she was ordered to telework. Dr. DiCello diagnosed a right sacroiliac joint sprain, and subluxation, and recommended transcutaneous electrical nerve stimulation (TENS) and ice treatment twice a week for three weeks.

In subsequent follow-up treatment notes dated April 22 through June 17, 2020, Dr. DiCello noted appellant's complaints and detailed findings on physical examination of appellant's cervical and thoracic spine, including right L5-S1 subluxation with right multifidus small trigger point. She recommended continued treatment with TENS, ice, and home exercises. Dr. DiCello further noted that appellant's condition improved with changes to appellant's home workstation and continued treatment.

By decision dated July 7, 2020, OWCP denied appellant's occupational disease claim finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted factors of her federal employment. It noted that, under FECA a physician includes chiropractors only if there is a diagnosed spinal subluxation and it is demonstrated by x-ray, however, the record did not contain an x-ray to support Dr. DiCello's finding of subluxation. OWCP concluded, therefore, that the requirements had not been met to establish an injury under FECA.

OWCP continued to receive evidence. In a June 26, 2020 treatment note, Dr. DiCello reported that appellant's back condition significantly improved after appellant changed the arrangement of her work from home setting and continued the prescribed treatment.

On January 28, 2021 appellant requested reconsideration of the July 7, 2020 decision. She reiterated that her injuries were caused by inadequate equipment. Appellant also submitted a September 4, 2020 report of a computerized tomography (CT) scan of the abdomen and pelvis from an unidentifiable healthcare provider, which revealed degenerative disc changes at L5-S1.

By decision dated March 26, 2021, OWCP denied modification of its July 7, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>3</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be

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<sup>2</sup> *Id.*

<sup>3</sup> *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>8</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted treatment notes dated April 17 to June 26, 2021, and a May 1, 2020 narrative statement, from her chiropractor, Dr. DiCello, who diagnosed right sacroiliac joint sprain, subluxations, cervical spine sprain with myalgia, and tension headaches. Chiropractors are not considered physicians under FECA unless it is established that there is a spinal subluxation as demonstrated by x-ray to exist.<sup>10</sup> As Dr. DiCello did not diagnose subluxation based on an x-ray, her reports have no probative value.<sup>11</sup>

Appellant also submitted a September 4, 2020 CT scan from an unidentifiable healthcare provider revealing degenerative disc changes at L5-S1. The Board has held that reports that are unsigned or bear illegible signatures cannot be considered probative medical evidence because they lack proper identification that the author is a physician.<sup>12</sup> Accordingly, the September 4, 2020 CT scan report is also insufficient to satisfy appellant's burden of proof to establish her claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition causally related to the accepted factors of appellant's federal employment, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

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<sup>9</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *A.C.*, Docket No. 21-0087 (issued November 9, 2021); *C.H.*, Docket No. 19-1127 (issued March 1, 2020); *Kathryn Haggerty*, 45 ECAB 383 (1994).

<sup>11</sup> 5 U.S.C. § 8101(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the secretary. *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>12</sup> *A.B.*, Docket No. 20-0971 (issued January 26, 2021); *J.P.*, Docket No. 19-0197 (issued June 21, 2019); *Merton J. Sills*, *id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 26, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 19, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board